

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIP HUBBAUER and LOUIS T. MANZIONE

Appeal No. 1998-0259
Application No. 08/391,817

ON BRIEF

Before JERRY SMITH, RUGGIERO, and HECKER, Administrative Patent Judges.

HECKER, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 41. Claims 21 and 22 have been subsequently objected to as being dependent upon a rejected base claim, and claims 24 through 41 have been subsequently allowed (answer-page 2). Thus claims 1 through 20 and 23 remain finally

rejected.

Appellants' invention relates to a connector for optical fibers. In particular, with reference to Figure 1C, substrate 20 is covered with encapsulant 30 having a feature 40 (i.e., V-groove) therein. Optical fibers 15 and 16 are placed in the feature (i.e., V-groove), and are thus retained in a fixed orientation with respect to the substrate.

Representative independent claim 1 is reproduced as follows:

1. A connector for an optical fiber comprising:

a rigid substrate having a substantially flat upper surface;

an encapsulant covering the upper surface of the substrate; and

a feature, disposed within the encapsulant for receiving at least part of the optical fiber therein and retaining the optical fiber in a fixed orientation with respect to the substrate.

The references relied on by the Examiner are as follows:¹

Kubota et al. (Kubota) JP 4 245207(A)

Sep. 1, 1992

¹ Any citations to these references are directed to translations obtained by the USPTO, copies enclosed.

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Nakazawa	JP 4 245208(A)	Sep. 1, 1992
Yamada et al. (Yamada)	JP 5 045531(A)	Feb. 23, 1993

Claims 1 through 7, 9 through 14, 16 through 20 and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yamada.

Claims 1 through 3, 7 through 10, 14 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Nakazawa.

Claims 1 through 3, 7 through 10, 14 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kubota.²

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

² Although the final rejection recited a rejection of all claims (then 1-41) over each of the three references, the answer (pages 4 and 5) has restated the rejections as applying each reference to certain claims.

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After a careful review of the evidence before us, we agree with the Examiner that claims 1 through 20 and 23 are anticipated under 35 U.S.C. § 102 by Kubota, Nakazawa and Yamada, each taken separately.

At the outset, we note that Appellants have indicated on page 4 of the brief that all claims stand or fall together. We further note that Appellants have argued the claims as one group.

As per 37 CFR § 1.192(c)(7) revised as of July 1, 1996, which was controlling at the time of Appellants filing the brief, we have selected claim 1 as the representative claim.

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. ***See In re King***, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and ***Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.***, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). "Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention." ***RCA Corp. v.***

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Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221
USPQ 385, 388 (Fed. Cir. 1984), *cert. dismissed*, 468 U.S. 1228
(1984), *citing Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760,
772, 218 USPQ 781, 789 (Fed. Cir. 1983).

Yamada

The Examiner explains that Yamada's Figure 7 anticipates claim 1 with the optical fibers being 22-24, the substrate being element 21, the encapsulant being element 28, and the feature being a circular groove formed in encapsulant 28 over the ends of optical fibers 22-24 (answer-pages 4 and 5).

Appellants argue that Yamada does not teach "a fiber orientating feature disposed in the encapsulant" nor a "feature being formed solely in the encapsulant material" (brief-page 6).

Viewing Yamada's Figure 7, we agree with the Examiner. The circular grooves (i.e., features) formed in encapsulant 28 over the optical fiber ends help retain the optical fibers "in a fixed orientation with respect to the substrate" as claimed. With respect to Appellants' argument that the feature be

formed solely in the encapsulant material, this argument fails at the outset because it is not based on a limitation appearing in the claim. Thus, whether the feature is formed solely in the encapsulant is immaterial. See ***In re Self***, 671 F.2d 1344, 1350, 213 USPQ 1, 5 ((CCPA 1982)).

Nakazawa

The Examiner explains that Nakazawa's Figure 1 anticipates claim 1 with the substrate being element 2a, the optical fiber being element 3, the encapsulant being elements 5 and 12, and the feature being element 12a (V-groove)(answer-page 5).

Appellants argue that Nakazawa's feature is formed into the substrate itself and not solely in the encapsulant, and that there is no disclosure of "an optical fiber retaining feature formed in the encapsulant material over the flat surface of the substrate." (Brief-page 7.)

Viewing Nakazawa's Figure 1, we agree with the Examiner. With respect to Appellants' argument that the feature be formed solely in the encapsulant material, this argument fails at the outset because it is not based on a limitation

appearing in the claim. Thus, whether the feature is formed solely in the encapsulant is immaterial. See *In re Self*, 671 F.2d 1344, 1350, 213 USPQ 1, 5 ((CCPA 1982). Nakazawa's feature (i.e., V-groove 12a) is clearly located in what the Examiner relies upon as the encapsulant, elements 5 and 12. Element 5 is located over substrate 2a as required by claim 1. Additionally, although Nakazawa recites 12 is a casing and 5 is a lid, a broad interpretation of these components qualifies them as an encapsulant. Note the enclosed dictionary³ definition wherein it states, encapsulate- to enclose in or as if in a capsule.

Kubota

The Examiner's explanation of Kubota is the same, element for element, as that stated for Nakazawa supra. (Answer-page 5.)

Appellants acknowledge that Kubota is closely related to Nakazawa (brief-page 8), and rely on the same arguments.

Accordingly, we again agree with the Examiner's position

³ Webster's Ninth New Collegiate Dictionary, 1986

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for the same reasons as noted with respect to Nakazawa. Additionally we note, V-groove 12a retains optical fiber 3 in a fixed orientation with respect to substrate 2a as claimed.

We note that Appellants have not argued that the three references have failed to meet any other limitations. We are not required to raise and/or consider such issues. As stated by our reviewing court in *In re Baxter Travenol Labs.*, 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991), "[i]t is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art." 37 CFR § 1.192(a) as amended at 60 F.R. 14518 Mar. 17, 1995, which was controlling at the time of Appellants filing the brief, states as follows:

The brief . . . must set forth the authorities and arguments on which the appellant will rely to maintain the appeal. Any arguments or authorities not included in the brief will be refused consideration by the Board of [P]atent Appeals and Interferences, unless good cause is shown.

Also, 37 CFR § 1.192(c)(8)(iii) states:

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For each rejection under 35 U.S.C. § 102, the argument shall specify the errors in the rejection and why the rejected claims are patentable under 35 U.S.C. § 102, including any specific limitations in the rejected claims which are not described in the prior art relied upon in the rejection.

Thus, 37 CFR § 1.192 provides that just as the court is not under any burden to raise and/or consider such issues this board is not under any greater burden.

In view of the foregoing, the decision of the Examiner rejecting claims 1 through 20 and 23 under 35 U.S.C. § 102 is affirmed.

No time period for taking any subsequent action in

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connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

	JERRY SMITH)	
	Administrative Patent Judge)	
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)	BOARD OF
PATENT)	
	JOSEPH F. RUGGIERO)	APPEALS
AND)	
	Administrative Patent Judge)	
INTERFERENCES)	
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	STUART N. HECKER)	
	Administrative Patent Judge)	

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